

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

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	:	
In re:	:	INVOLUNTARY CHAPTER 7
	:	
HERMITAGE INN REAL ESTATE	:	
HOLDING COMPANY, LLC	:	CASE NO. 19-10214 (CAB)
	:	
Alleged Debtor	:	Re: ECF Nos. 64 and 70
	x	

**REPLY TO (i) OBJECTION OF PETITIONING CREDITORS TO
MOTION FOR ORDER TRANSFERRING VENUE OF PENDING INVOLUNTARY
CHAPTER 7 CASE FROM THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF VERMONT TO THE DISTRICT OF CONNECTICUT; and
(ii) OBJECTION OF BARNSTORMER SUMMIT LIFT, LLC TO MOTION FOR
ORDER TRANSFERRING VENUE**

Hermitage Inn Real Estate Holding Company, LLC (“HIREHCO”), the alleged debtor herein and Hermitage Club, LLC (collectively, the “Debtors”), by and through their undersigned counsel, respectfully submit this reply to (i) the Objection of Petitioning Creditors to Motion for Order Transferring Venue of Pending Involuntary Chapter 7 Case from the United States Bankruptcy Court for the District of Vermont to the District of Connecticut (ECF No. 70); and (ii) the Objection of Barnstormer Summit Lift, LLC (“Barnstormer”) to Motion for Order Transferring Venue (ECF No. 64) (jointly, the “Objections”). In support of this Reply, the Debtors represent as follows:

1. This involuntary case was commenced on May 22, 2019 upon the filing of an involuntary petition for relief under Chapter 7 by Bobbi Resek, Dan Solaz and Lakeland Bank (collectively, the “Petitioning Creditors”). To date, no order for relief has entered with regard to the involuntary petition.

2. On May 28, 2019, HIREHCO, together with its affiliated entity, Hermitage Club, LLC (the “Club”) filed voluntary petitions for reorganization in the United States Bankruptcy

Court for the District of Connecticut, Hartford Division (the “Connecticut Bankruptcy Cases”). A motion for joint administration of the Connecticut Bankruptcy Cases is pending. HIREHCO and the Club have also filed a motion to approve debtor-in-possession financing with Restructured Opportunities Investors, Inc. (“DIP Lender”) which will enable the companies to maintain their businesses during their Chapter 11 proceedings.

3. By Motion for Order Transferring Venue dated June 3, 2019, the Debtors sought transfer of this Involuntary Case to the Connecticut Bankruptcy Court (the “Motion”). On June 5, 2019, the Petitioning Creditors and Barnstormer filed the Objections to the Motion. In addition, both Barnstormer and the Petitioning Creditors have filed Motions to Transfer Venue of the Connecticut Bankruptcy Cases to Vermont (“Creditor Motions”). The Debtors incorporate herein their Objection to the Creditor Motions (ECF No. 68).

4. The Debtors’ choice of forum in Connecticut was based upon weeks of strategic planning prior to the commencement of the Connecticut Bankruptcy Cases. Several factors supported the Debtors’ determination that the Connecticut Bankruptcy Court provided the best venue for a speedy, efficient and successful reorganization of the Debtors’ estates. The main determinative factors were (i) the location of the creditors; (ii) the location of the members of the Club; (iii) the location of the DIP Lender; (iv) the location of the professionals of the DIP Lender, including the proposed Chief Restructuring Officer to be appointed to assume management control of the Debtors; (v) the location of the professionals of Berkshire Bank, the Debtors’ largest secured creditor; (vi) the location of the Debtors’ professionals; and (vii) the location of the Debtors’ books and records and sales and marketing efforts.

5. On June 9, 2019, the Debtors filed copies of the Schedules filed in the Connecticut Bankruptcy Cases as a Supplement to the Motion (See, ECF No. 78) (the “Schedules”). The

Schedules evidence that the majority of the creditors, by number and amount of claims, are located outside Vermont, with most located in Connecticut and New York. A summary of the claims by geographic location (by number of claims and by claim amount) is attached hereto and made a part hereof as Exhibit A.

6. The Debtors anticipate that members of the Club will participate in the Debtors' bankruptcy cases and will be an integral part of their reorganization efforts. Several of the Club members and other unsecured creditors have expressed a preference for venue in the Connecticut Bankruptcy Court and have submitted affidavits or statements in support of the transfer of venue to Connecticut, copies of which have been attached hereto and made a part hereof as Exhibit B.

7. Vermont does not represent the location of the majority of the creditors of Debtors' estates.¹ The Petitioning Creditors and Barnstormer favor venue in Vermont and are seeking to liquidate the Debtors' assets without allowing Debtors an opportunity to reorganize. No deference should be afforded to Petitioning Creditors simply because their race to the courthouse was swift. The *Caesars* court recognized that an anticipatory involuntary filing should not be rewarded to the detriment of the Debtors and the creditors of the estates. "The Court recognizes that rewarding the Petitioning Creditors' preemptive filing in another forum would set a bad precedent for future bankruptcy cases and limit the ability of future debtors to openly negotiate with creditors prior to filing a voluntary bankruptcy petition. It is contrary to the interest of justice to favor the Petitioning Creditors in such a scenario." *In re Caesars Entertainment Operating Co.*, No. 15-10047 (KG), 2015 Bankr. LEXIS 314 at *26-27 (Bkrtcy. D. Del. Feb. 2, 2015).

8. The Debtors are entitled to the deference of the Court on their choice of venue and have the support of members and creditors. The Petitioning Creditors and Barnstormer represent

¹ Notably, Berkshire Bank has filed a Statement indicating that it takes no position with respect to the venue issue. (ECF No. 65).

only four of the hundreds of creditors in these estates. Their interests should not be placed over the interests of the Debtors, their creditors and their estates. The Debtors should be afforded the opportunity to reorganize under Chapter 11 in the Connecticut Bankruptcy Cases.

WHEREFORE, for all the foregoing reasons, HIREHCO respectfully requests that the Objections be denied and the Debtors' Motion be granted, and such other and further relief as to the Court seems just and proper.

Dated: June 10, 2019
New Haven, Connecticut

HERMITAGE INN REAL ESTATE
HOLDING COMPANY, LLC, Alleged
Debtor and HERMITAGE CLUB, LLC,
Interested Party

By: /s/Douglas S. Skalka
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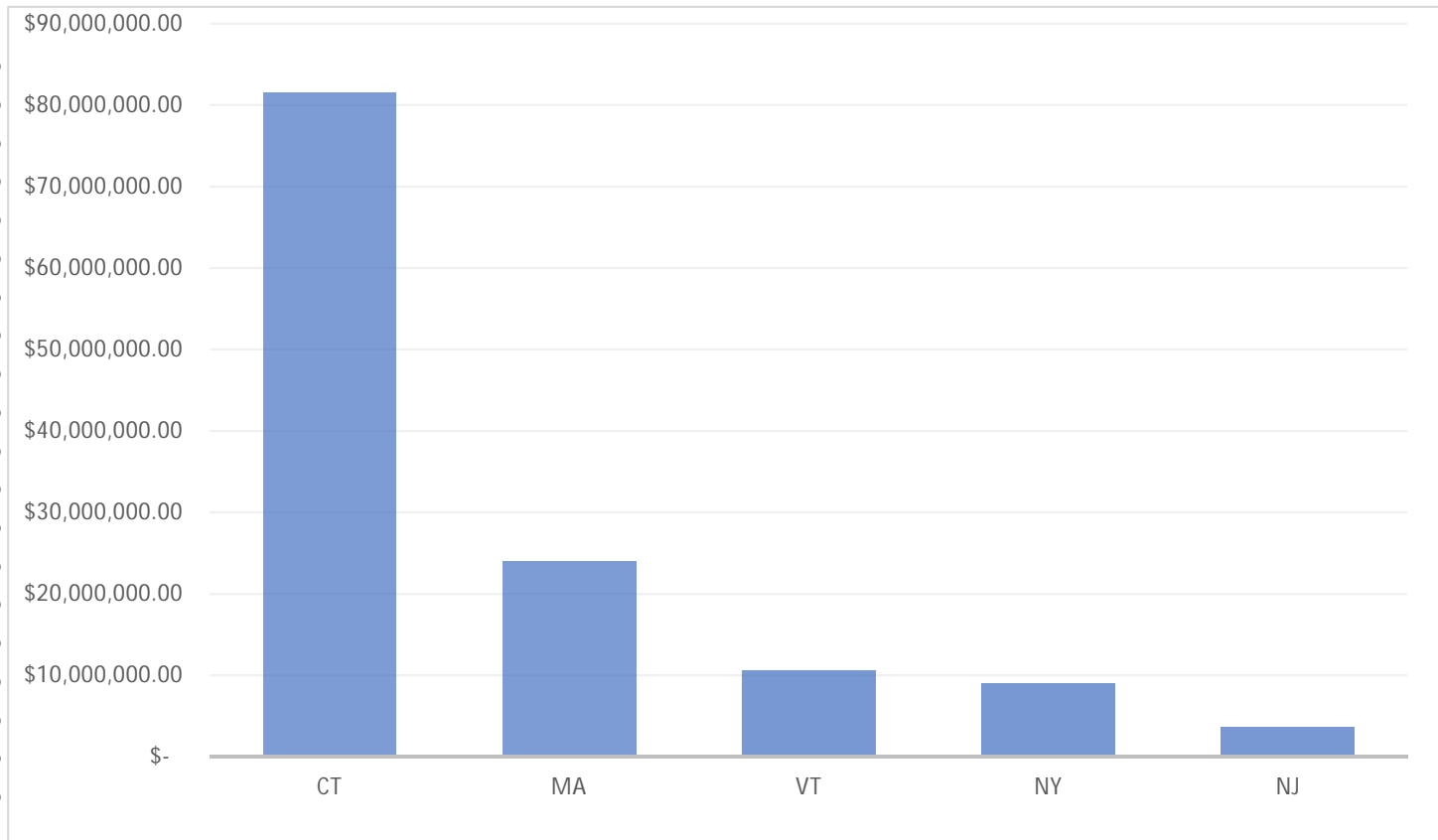
and

Thomas P. Simon, Esq.
McCormick, Fitzpatrick,
Kasper & Burchard, P.C.
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(802) 863-3494
tps@mc-fitz.com

EXHIBIT A

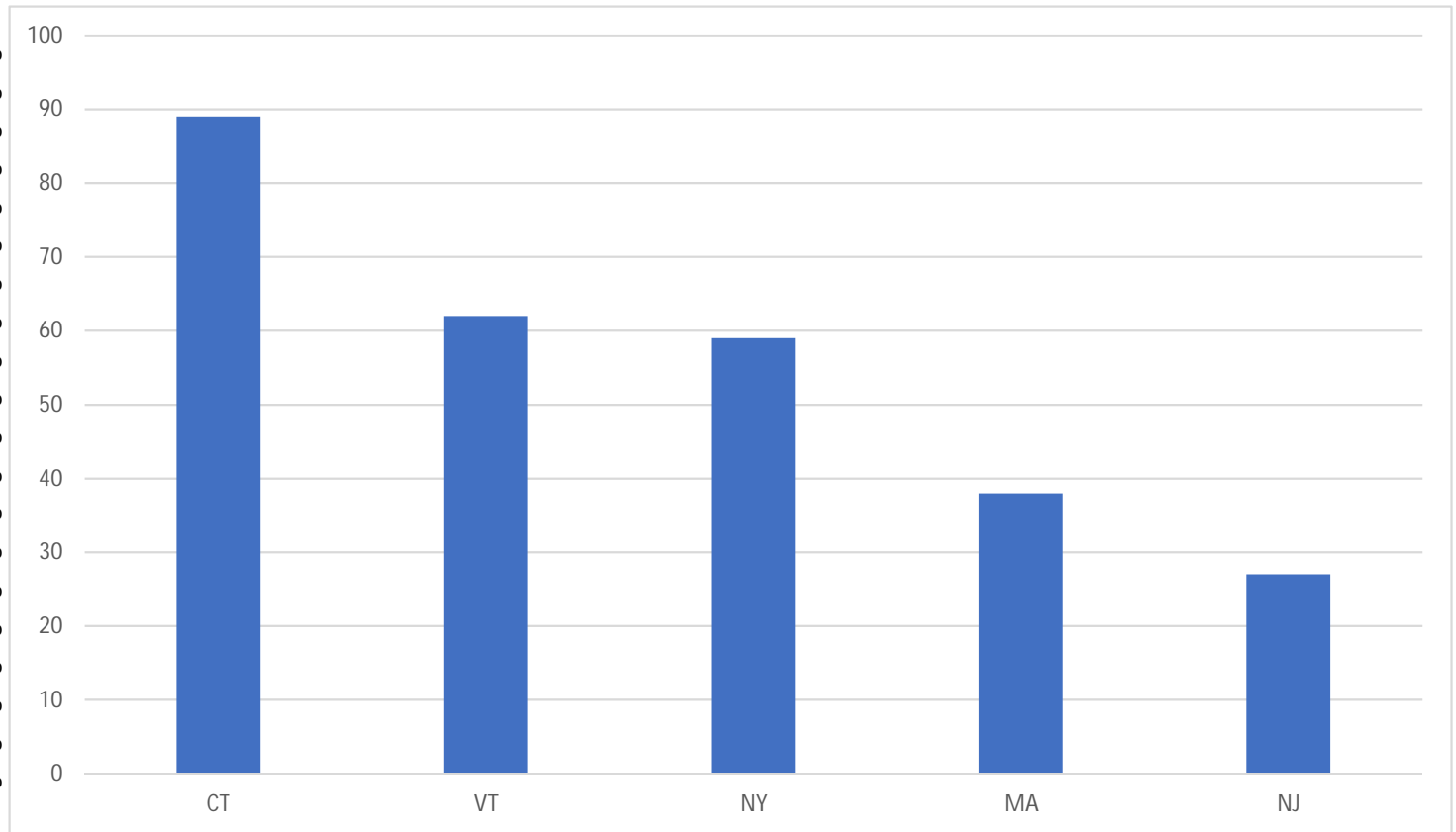
Hermitage Inn Real Estate Holding Company, LLC
Summary of Schedules D and E/F filed 06/09/2019
By Claim Amount

State	ClaimAmt	
CT	\$ 81,591,138.87	60.737%
MA	\$ 24,042,882.09	17.898%
VT	\$ 10,635,446.71	7.917%
NY	\$ 8,967,198.88	6.675%
NJ	\$ 3,654,435.52	2.720%
IL	\$ 1,622,107.20	1.208%
FL	\$ 1,461,831.76	1.088%
RI	\$ 1,000,000.00	0.744%
MD	\$ 430,000.00	0.320%
CA	\$ 338,717.81	0.252%
PA	\$ 200,920.34	0.150%
NH	\$ 191,217.30	0.142%
MI	\$ 81,884.83	0.061%
AZ	\$ 69,762.39	0.052%
NC	\$ 17,996.24	0.013%
TN	\$ 12,027.03	0.009%
OH	\$ 5,603.00	0.004%
ME	\$ 5,000.00	0.004%
Intl	\$ 3,667.23	0.003%
ND	\$ 2,788.60	0.002%
Grand Total	\$ 134,334,625.80	



Hermitage Inn Real Estate Holding Company, LLC
Summary of Schedules D and E/F filed 06/09/2019
By Number of Claims

State	Claims	
CT	89	28.165%
VT	62	19.620%
NY	59	18.671%
MA	38	12.025%
NJ	27	8.544%
IL	6	1.899%
NH	6	1.899%
RI	6	1.899%
PA	5	1.582%
AZ	4	1.266%
FL	3	0.949%
MI	3	0.949%
CA	1	0.316%
Intl	1	0.316%
MD	1	0.316%
ME	1	0.316%
NC	1	0.316%
ND	1	0.316%
OH	1	0.316%
TN	1	0.316%
Grand Total	316	

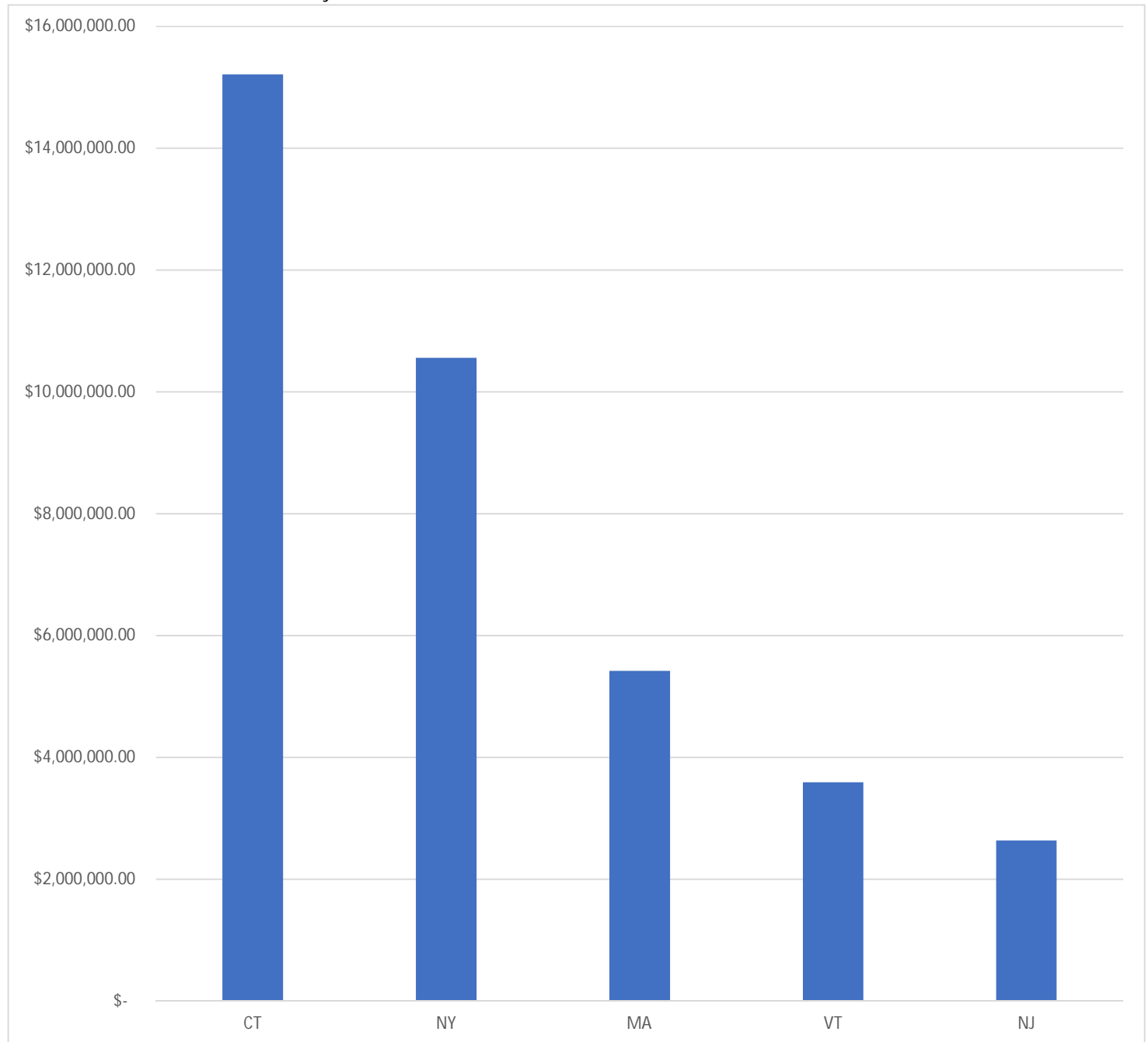


Hermitage Club, LLC

Summary of Schedules D and E/F filed 06/09/2019

By Claim Amount

State	ClaimAmt	
CT	\$ 15,211,940.10	37.9952%
NY	\$ 10,559,348.72	26.3743%
MA	\$ 5,419,875.42	13.5373%
VT	\$ 3,594,516.84	8.9781%
NJ	\$ 2,639,179.43	6.5919%
RI	\$ 764,168.49	1.9087%
NH	\$ 345,005.55	0.8617%
CO	\$ 195,631.05	0.4886%
FL	\$ 194,471.67	0.4857%
IL	\$ 174,975.87	0.4370%
GA	\$ 150,446.75	0.3758%
PA	\$ 149,659.98	0.3738%
TX	\$ 131,682.40	0.3289%
DE	\$ 104,000.00	0.2598%
UT	\$ 87,077.69	0.2175%
DC	\$ 78,000.00	0.1948%
Intl	\$ 57,902.30	0.1446%
WA	\$ 33,830.47	0.0845%
ME	\$ 27,804.15	0.0694%
NV	\$ 24,786.16	0.0619%
CA	\$ 24,009.55	0.0600%
AZ	\$ 22,124.81	0.0553%
TN	\$ 8,590.75	0.0215%
OH	\$ 8,117.46	0.0203%
VA	\$ 6,660.00	0.0166%
KS	\$ 5,105.25	0.0128%
NC	\$ 5,051.26	0.0126%
ND	\$ 2,788.60	0.0070%
MN	\$ 2,527.69	0.0063%
MO	\$ 2,205.25	0.0055%
ID	\$ 1,778.00	0.0044%
WI	\$ 1,365.35	0.0034%
MI	\$ 1,161.12	0.0029%
SC	\$ 568.89	0.0014%
MD	\$ 110.00	0.0003%
IA	\$ 26.88	0.0001%
Grand Total	\$ 40,036,493.90	



Hermitage Club, LLC
Summary of Schedules D and E/F filed 06/09/2019
By Number of Claims

State	Claims	
CT	239	27.47%
NY	190	21.84%
VT	125	14.37%
MA	92	10.57%
NJ	57	6.55%
NH	26	2.99%
RI	18	2.07%
IL	17	1.95%
CO	13	1.49%
PA	10	1.15%
TX	9	1.03%
CA	8	0.92%
Intl	8	0.92%
UT	8	0.92%
FL	7	0.80%
AZ	4	0.46%
GA	4	0.46%
OH	4	0.46%
ME	3	0.34%
MN	3	0.34%
TN	3	0.34%
DC	2	0.23%
DE	2	0.23%
IA	2	0.23%
MI	2	0.23%
NC	2	0.23%
NV	2	0.23%
WI	2	0.23%
ID	1	0.11%
KS	1	0.11%
MD	1	0.11%
MO	1	0.11%
ND	1	0.11%
SC	1	0.11%
VA	1	0.11%
WA	1	0.11%
Grand Count	870	

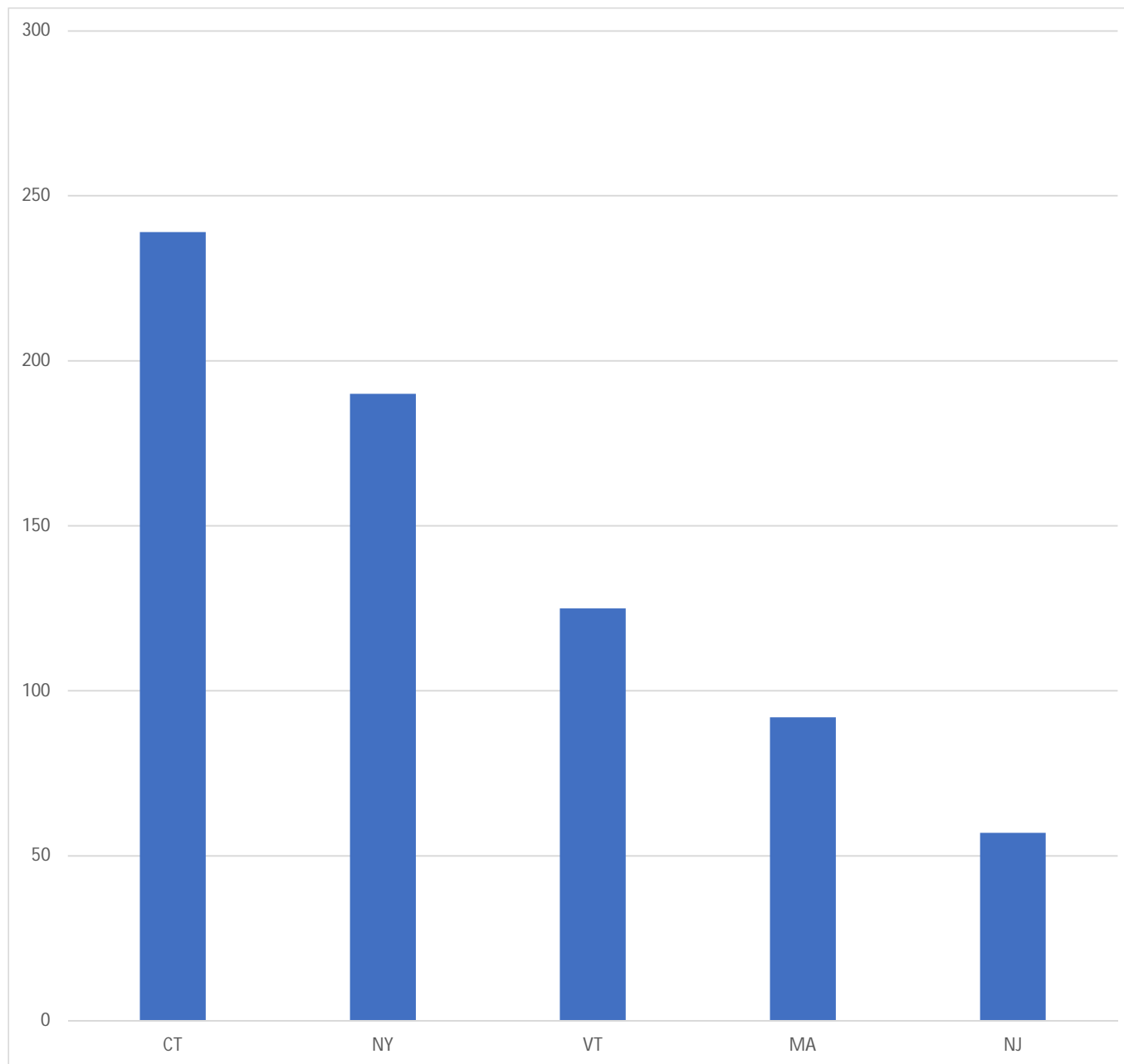


EXHIBIT B

STATE OF CONNECTICUT)
) ss. Hartford
COUNTY OF HARTFORD)

AFFIDAVIT

EDWARD B. WHITTEMORE HEREBY STATES AS FOLLOWS:

1. I am a partner of Murtha Cullina LLP, a law firm operating as a Connecticut limited liability partnership ("Murtha Cullina").
2. I am over the age of 18 years and understand the obligations of an oath.
3. Murtha Cullina is an unsecured creditor of Hermitage Inn Real Estate Holding Company LLC ("HIREHCO").
4. I understand that an involuntary petition in bankruptcy was filed against HIREHCO in the United States Bankruptcy Court for the District of Vermont in Burlington, VT ("Vermont Court"). Murtha Cullina also understands that voluntary petitions for reorganization under Chapter 11 were filed by HIREHCO and Hermitage Club, LLC (the "Club") in the United States Bankruptcy Court for the District of Connecticut in Hartford, CT (the "Connecticut Court").
5. Murtha Cullina may participate in the bankruptcy cases of HIREHCO and the Club.
6. MC understands that HIREHCO is filing a motion in the Vermont Court to transfer venue of the HIREHCO involuntary case to the Connecticut Court (the "Motion").

7. Murtha Cullina supports the Motion and the transfer of the venue to the Hartford Connecticut Court. Murtha Cullina is based in Hartford, Connecticut, which is at least 3-4 hours by car to the Burlington Vermont Court. It would be extremely difficult for Murtha Cullina to attend hearings and otherwise participate in the bankruptcy case at the Burlington Vermont Court. Any scheduled morning hearings would necessitate an overnight stay to ensure a timely arrival.
8. Murtha Cullina might not participate in the bankruptcy process but we feel that Murtha Cullina will be able to do so only if the Motion is granted and the venue of the HIREHCO case is transferred to the Hartford Connecticut Court.

Further, the affiant sayeth not.

MURTHA CULLINA LLP

By: 
Name: Edward B. Whittemore, a partner

Subscribed and sworn to before
me, this 7th day of June, 2019.


Notary Public/~~Commissioner of the Superior Court~~

MICHELE KUCK
NOTARY PUBLIC
MY COMMISSION EXPIRES 10/31/2023

STATE OF CONNECTICUT)
) ss: Hartford June 6, 2019
COUNTY OF HARTFORD)

AFFIDAVIT

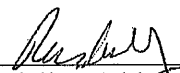
I, Randall J. Sabia, HEREBY STATE AS FOLLOWS:

1. I am over the age of 18 years and understand the obligations of an oath.
2. I am the managing member of Sabia Taiman, LLC, an unsecured creditor of Hermitage Inn Real Estate Holding Company LLC ("HIREHCO").
3. I understand that an involuntary petition in bankruptcy was filed against HIREHCO in the United States Bankruptcy Court for the District of Vermont in Burlington, VT ("Vermont Court"). I also understand that voluntary petitions for reorganization under Chapter 11 were filed by HIREHCO and Hermitage Club, LLC (the "Club") in the United States Bankruptcy Court for the District of Connecticut in Hartford, CT (the "Connecticut Court").
4. Sabia Taiman, LLC is an unsecured creditor of the Club.
5. Sabia Taiman, LLC intends to participate in the bankruptcy cases of HIREHCO and the Club.
6. I understand that HIREHCO is filing a motion in the Vermont Court to transfer venue of the HIREHCO involuntary case to the Connecticut Court (the "Motion").
7. I support the Motion and the transfer of the venue to the Hartford Connecticut Court. I live in West Hartford, Connecticut which is at least 5 hours by car to the Burlington Vermont Court. It would be extremely difficult for me to attend hearings and otherwise participate in the bankruptcy case at the Burlington Vermont Court. Any scheduled morning hearings would necessitate an overnight stay to ensure a timely arrival.

8. It is my desire and intent to fully participate in the bankruptcy process but I feel that I will be able to do so only if the Motion is granted and the venue of the HIREHCO case is transferred to the Hartford Connecticut Court. In addition, Sabia Taiman, LLC's claims are against both entities and I feel that were the Club case to continue in the Connecticut Court while the HIREHCO case remains in the Vermont Court, it would be burdensome to me and the other creditors and would impede any ability of the entities to reorganize.


Further, the affiant sayeth not.

SABIA TAIMAN, LLC



Randall J. Sabia
Its Managing Member

Subscribed and sworn to before
me, this 6th day of June, 2019.



Notary Public/Commissioner of the Superior Court
Tina M. DeLoGreco
my commission exp: 9/30/2023

STATE OF CONNECTICUT)
) ss: HARTFORD
COUNTY OF HARTFORD)

DECLARATION PURSUANT TO 28 U.S.C. 1746

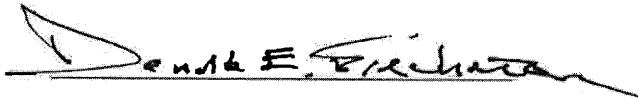
Donald E. Frechette hereby states as follows:

1. I am over the age of 18 years and am fully competent to testify as to the matters herein described.
2. I am a partner of Locke Lord LLP ("**Locke Lord**").
3. Locke Lord is an unsecured creditor of, among others, Hermitage Inn Real Estate Holding Company LLC ("**HIREHCO**").
4. On information and belief, an involuntary petition in bankruptcy was filed against HIREHCO in the United States Bankruptcy Court for the District of Vermont in Burlington, VT ("Vermont Court"). I am also aware that voluntary petitions for reorganization under Chapter 11 were filed by HIREHCO and Hermitage Club, LLC (the "**Club**") in the United States Bankruptcy Court for the District of Connecticut in Hartford, CT (the "Connecticut Court").
5. Locke Lord is also an unsecured creditor of the Club.
6. Locke Lord intends to participate in the bankruptcy cases of HIREHCO and the Club.

7. I am informed that HIREHCO is filing a motion in the Vermont bankruptcy proceeding to transfer venue of the HIREHCO involuntary case to the Connecticut bankruptcy court (the "**Motion**").
8. Locke Lord supports the Motion and the related change of venue. Locke Lord's Hartford office is at least 3 and 3/4th hours by car to the Vermont bankruptcy court. As an unsecured creditor, it would plainly be more burdensome and time-consuming for a Locke Lord representative to attend proceedings in Vermont as opposed to the Hartford, Connecticut bankruptcy court which is, quite literally, down the street from Locke Lord's Hartford office.
9. I am also compelled to observe that, were the Club's bankruptcy case to continue in the Connecticut bankruptcy court, and the HIREHCO case remains in the Vermont bankruptcy court, the potential for inconsistent rulings exists and, moreover, it will plainly be more difficult for the debtors, their different sets of counsel, and the creditors (and their counsel) to effectively coordinate an omnibus resolution of all issues, thus impeding the ability of the entities to reorganize.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6th day of June, 2019



Donald E. Frechette

STATE OF)
) ss:
COUNTY OF)

DECLARATION PURSUANT TO 28 U.S.C. 1746

ROBERT COFFIN, HEREBY STATES AS FOLLOWS:

1. I am over the age of 18 years and understand the obligations of an oath.
2. I am listed as an unsecured creditor of Hermitage Inn Real Estate Holding Company LLC ("HIREHCO").
3. I understand that an involuntary petition in bankruptcy was filed against HIREHCO in the United States Bankruptcy Court for the District of Vermont in Burlington, VT ("Vermont Court"). I also understand that voluntary petitions for reorganization under Chapter 11 were filed by HIREHCO and Hermitage Club, LLC (the "Club") in the United States Bankruptcy Court for the District of Connecticut in Hartford, CT (the "Connecticut Court").
4. I am also listed as an unsecured creditor of the Club.
5. I intend to participate in the bankruptcy cases of HIREHCO and the Club.
6. I understand that HIREHCO is filing a motion in the Vermont Court to transfer venue of the HIREHCO involuntary case to the Connecticut Court (the "Motion").
7. I support the Motion and the transfer of the venue to the Hartford Connecticut Court. I live in Boston which is at least 3.40 hours by car to the Burlington Vermont Court whereas Hartford is 1.45 hours. I also have legal representation in CT. It would be extremely difficult for me to attend hearings and otherwise participate in the bankruptcy case at the Burlington Vermont Court. Any scheduled morning hearings would necessitate an overnight stay to ensure a timely arrival.
8. It is my desire and intent to fully participate in the bankruptcy process but I feel that I will be able to do so only if the Motion is granted and the venue of the HIREHCO case is

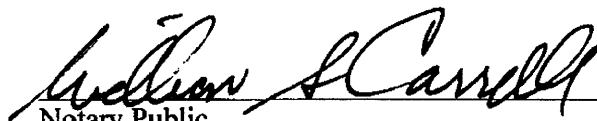
transferred to the Hartford Connecticut Court. In addition, my claims are against both entities and I feel that were the Club case to continue in the Connecticut Court while the HIREHCO case remains in the Vermont Court, it would be burdensome to me and the other creditors and would impede any ability of the entities to reorganize.

9. I have funded \$1,030 on the Ad Hoc Committee gofundme.com page. However, I have not signed a retainer for legal counsel as part of that, and I do not support the current efforts of the Ad Hoc Committee in any regard. I have not received any business plan for a liquidation, I do not support any liquidation, including under Chapter 7. Attached hereto is a true and accurate copy of the email I sent to a member of the steering committee for the Ad Hoc Committee on June 6, 2019 concerning my views on the actions being taken on behalf of the Ad Hoc Committee.

Further, the affiant sayeth not.


Robert Coffin

Subscribed and sworn to before me
this 6 day of June, 2019.


Notary Public
My Commission Expires: Oct 9, 2020
Commonwealth of Massachusetts
William S. Carroll

From: rsc5321@gmail.com
Sent: June 6, 2019 2:55 PM
To: coniglio.anthony@gmail.com

Cc: ttreanor@sidley.com; memberrestructuringcommittee@gmail.com

Subject: Representations to the VT bankruptcy court

Hi Anthony,

I am aware that you have engineered the filing for Chapter 7 liquidation of the Hermitage entities, and are claiming the support of the contributors to the funding of the ad hoc committee for this.

However, I merely contributed to support the best interests of the Club and all constituents going forward, whatever the best path forward turned out to be, and to aid in determining what that path should be.

I was not, however, consulted when the ad hoc committee leadership decided to engineer and support the filing for Chapter 7, and am not and never was supportive of that approach. This is even more the case now Chapter 11 filings have been made by HIRECO and the Hermitage Club themselves.

As such please remove any mention of my association and/or support from any representation that the ad hoc committee may be making to any party, including to the Court in VT. Please instead make it clear that I do not support this approach, and nor do I support the effort to move the Chapter 11 cases to VT.

Please confirm receipt of this email.

Best,
Rob

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

_____	X	
	:	
In re:	:	INVOLUNTARY CHAPTER 7
	:	
HERMITAGE INN REAL ESTATE	:	
HOLDING COMPANY, LLC	:	CASE NO. 19-10214 (CAB)
	:	
Alleged Debtor	:	
_____	X	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 10, 2019, the foregoing Reply was electronically filed. Notice of this filing was sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing. Parties may access this filing through the Court's system.

Dated: June 10, 2019
New Haven, Connecticut

HERMITAGE INN REAL ESTATE
HOLDING COMPANY, LLC, Alleged
Debtor and HERMITAGE CLUB, LLC,
Interested Party

By: /s/Douglas S. Skalka
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Manual Notice List

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